



Telephone: (866) 540-5505  
 Facsimile: (866) 300-7367  
 www.millersshah.com

**VIA ECF**

November 21, 2022

The Honorable Colleen McMahon  
 United States District Court for the Southern District of New York  
 500 Pearl Street, Room 2550  
 New York, NY 10007

**Re: In re Omnicom Grp., Inc. ERISA Litig.,**  
**Case No. 1:20-cv-04141-CM- SLC**

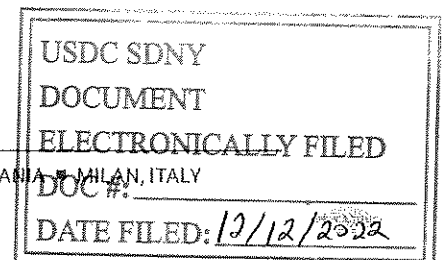
Dear Judge McMahon,

We represent the Plaintiffs<sup>1</sup> in the above-referenced matter and we write to request permission to file certain exhibits to Plaintiffs' oppositions to Defendants' motion for summary judgment and motions to exclude Plaintiffs' experts (the "Motions") under seal and redact certain quotations from those exhibits from the corresponding public filings until such time as the Court may determine whether it is appropriate to maintain such materials under seal.

On October 24, 2022, Defendants moved to file a substantial amount of the exhibits and certain briefing in support of the Motions under seal (ECF No. 134). In support of their sealing request, Defendants pointed to the Stipulated Protective Order (ECF No. 67), which provides for the designation of confidential information. On October 25, 2022, the Court entered an Order (ECF No. 155) allowing Defendants to file the exhibits and briefing subject to their request under seal on an interim basis and directing Defendants, after briefing on the Motions is complete, to justify why each exhibit and reference in a brief or affidavit qualifies for protection.

Plaintiffs' oppositions and supporting briefing reference and attach documents that Defendants have designated as "Confidential" pursuant to the Stipulated Protective Order. Although Plaintiffs generally do not believe that the information designated by Defendants warrants confidential treatment, this request is made out of an abundance of caution and on an interim basis, until the Court determines whether to allow such materials to be maintained under seal pursuant to Defendants' designations.

<sup>1</sup>The Plaintiffs in this Action are Shane Tepper, Surfina Adams, Michael Mensack, Carol Maisonette, and Daniel Dise.





Telephone: (866) 540-5505  
 Facsimile: (866) 300-7367  
[www.millersshah.com](http://www.millersshah.com)

Courts in this circuit have recognized that the presumption of public access to judicial documents must be weighed against “the role of the material at issue” and the resulting value of such information to the public. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006); *United States v. Amodeo*, 44 F.3d 141, 145 (2d Cir. 1995). Accordingly, public disclosure is often outweighed by the privacy interests of the party subject to disclosure in similar circumstances. *See, e.g., GoSmile, Inc. v. Dr. Jonathan Levine, D.M.D. P.C.*, 769 F. Supp. 2d 630, 649–50 (S.D.N.Y. 2011) (granting motion to seal “highly proprietary material concerning the defendants’ marketing strategies, product development, costs and budgeting”); *United States v. Wey*, 256 F. Supp. 3d 355, 411 (S.D.N.Y. 2017) (granting motion to seal “sensitive medical, financial, educational, and other personal information pertaining to non-parties”). Since Defendants have designated the documents sought to be sealed as “Confidential” pursuant to a provision of the protective order applicable to proprietary business information and other competitively sensitive information, there is good cause to grant Plaintiffs’ request.

Unredacted courtesy copies of Plaintiffs’ opposition to Defendants’ motion for summary judgment and *Daubert* motions, as well as all supporting papers and exhibits, will be delivered to the Court. Unredacted and redacted versions of the briefing and exhibits will be filed on the public record on this date.

We are available to discuss this request, as well as any matters related to the Motions, at the Court’s convenience. We appreciate Your Honor’s consideration of this request.

Respectfully submitted,

/s/ Laurie Rubinow

Laurie Rubinow  
 LR:bf

*Attorney for Plaintiffs, the Plan,  
 and the Class*

